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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,154	09/07/2000	Shun Nakamura	K6510.0055/P055	9966
24998	7590	09/19/2006	EXAMINER	
DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403			NGUYEN, KIM T	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/657,154

Applicant(s)

NAKAMURA ET AL.

Examiner

Kim T. Nguyen

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-16, 18-21, 38-40, 44-49 and 52-60 is/are pending in the application.
- 4a) Of the above claim(s) 8-16, 18-21 and 38-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 44-49 and 52-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner acknowledges receipt of the amendment on 6/30/06. According to the amendment, claims 58-60 have been added, claims 8-16, 18-21 and 38-40 are withdrawn from consideration, and claims 8-16, 18-21, 38-40, 44-49 and 52-60 are pending in the application.

Claim Objections

1. Claim 60 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 57. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 44-49, 53 and 55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a) In claim 44, line 15, the claimed limitation “at least two command marks” is ambiguous. It is not clear if the “at least two command marks” is “a command mark” in line 7, or other command marks?
- b) In claim 45, line 16, the claimed limitation “at least two command marks” is ambiguous. It is not clear if the “at least two command marks” is the “command mark” in line 8, or other command marks?
- c) In claim 46, lines 14-16, and 18-19, the claimed limitation “the command marks” is ambiguous. It is not clear if the “command marks” refers to “a plurality of different command marks” in line 8, or “a plurality of command marks” in lines 13-14, or “at least two command marks” in line 17. Further, it is not clear if the “a plurality of different command marks” in line 8, the “a plurality of command marks” in lines 13-14 and the “at least two command marks” in lines 16-17 are the same or different command marks.
- d) In claim 47, lines 8-9, the claimed limitation “said command marks” is ambiguous. It is not clear if “said command marks” refers to “a plurality of command marks” in lines 3-4, or “a plurality of command marks” in lines 7-8. Further, it is not clear if the “a plurality of command marks” in lines 3-4 and “a plurality of command marks” in lines 7-8 are the same or different command marks.
- e) In claim 47, line 15, the claimed limitation “the prescribed position” is ambiguous. It is not clear if “the prescribed position” refers to the “a single prescribed appearance position” in line 4, or the “prescribed disappearance position” in line 7.

f) In claim 48, lines 9-10, the claimed limitation “said prescribed initial display position” is ambiguous. It is not clear if the “prescribed initial display position” refers to the “a prescribed position” in line 3, or the “single prescribed appearance position” in lines 4 and 5, or the “prescribed disappearance position” in line 6.

g) In claim 48, lines 10-11 and 13-14, the claimed limitation “the prescribed position” is ambiguous. It is not clear if “the prescribed position” refers to the “a prescribed position” in line 3, or the “single prescribed appearance position” in lines 4 and 5, or the “prescribed disappearance position” in line 6, or the “said prescribed initial display position” in lines 9-10.

h) In claim 49, line 13, the claimed limitation “said command marks” is ambiguous. It is not clear if “said command marks” refers to “a plurality of different command marks” in line 5, or “a plurality of command marks” in line 9. Further, it is not clear if the “a plurality of different command marks” in line 5 and “a plurality of command marks” in line 9 are the same or different command marks.

i) In claim 53, line 14, the claimed limitation “the prescribed position” is ambiguous. It is not clear if “the prescribed position” refers to the “a single prescribed appearance position” in line 8, or the “prescribed disappearance position” in lines 10-11.

j) In claim 53, line 14, the claimed limitation “the command mark” is ambiguous. It is not clear if “the command mark” refers to the “command mark” in line 7, or the “two command marks” in line 12. Further, it is not clear if the “command mark” in

lines 7 and the “two command marks” in line 12 are the same or different command marks.

k) In claim 55, lines 14 and 15, the claimed limitation “the command marks” is ambiguous. It is not clear if “the command marks” refers to “a plurality of different command marks” in line 8, or “a plurality of command marks” in line 12.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 44-49 and 52-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipps et al (US 5,741,182) in view of Fenner et al (US 5,009,501) and Suzuki et al (US 6,227,968).

Claim 44: Lipps discloses a game apparatus comprising an operation device 4 (Fig. 1); a position detector detecting light from the bat (col. 1, lines 45-47 and col. 2, lines 56-58) at a plurality of positions (Fig. 2; ref 47); and a display unit 3 (Fig. 1) for issuing a prescribed operation to a game player and determining correctness of player device operation (col. 3, lines 5-12). Lipps does not disclose capturing successive spatial positions of an operation device to create a trace of the operation device movements. Fenner discloses a remotely controllable position indicator system that

uses light emitters and detectors to determine movement and orientation of objects (Abstract). Fenner discloses the system as a remotely hand held implement (col. 1, lines 22-23) with transmitter and receiver pairs to form a number of planes used to determine 3-D spatial reference with respect to the hand held implements (col. 1, lines 59-67 and col. 2, lines 37-48). Thus Fenner discloses that successive spatial positions are used to detect the movement of the operation device. Fenner envisions the system to be used for a plurality of applications such as detecting relative locations of players in a game and for interacting with images on a video screen (col. 1, lines 1-20). One would be motivated to use the 3-D spatial detection system taught by Fenner because such a system can increase the accuracy of the position detection system thus providing a player with better simulation and analysis of player performance (Lipps, col. 1, lines 25-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lipps to use the 3-D spatial detection system taught by Fenner so that an increase in detection accuracy can provide better game simulation and analysis for a player. Further, Lipps in view of Fenner does not disclose a command mark with a command of a specific operation. However, Suzuki teaches a game machine including a display unit for displaying a plurality command marks (e.g. M1-M4) that is blown out from a prescribed appearance position (e.g. S1-S4) and is drawn into a prescribed disappearance position (Figs. 7-9), the display unit displays at least two command marks (e.g. M1-M4) indicating different operations (e.g. left, down, up or right stepping) to be carried out. Suzuki further teaches that musical rhythm is integrated with the game

command marks, where the commands indicate a position a player needs to take (col. 16, line 9 through col. 17, line 8). Lipps in view of Fenner and Suzuki are related as game machines capturing moves of a user, wherein game computer judges move correctness. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Lipps in view of Fenner and include a specific command operation with the command mark taught by Suzuki so that a player attempting to associate correct moves with specific pitches can be told what type of pitches was being displayed.

Claim 45-49 and 52-60: refer to discussion in claim 44 above. Further, regarding to claims 52, 56 and 58-59, since Lipps discloses including a game machine 1 (Fig. 2) in the game system (col. 3, lines 13-17; and col. 6, line 4), Lipps obviously encompasses including a control unit for controlling a game as claimed.

Response to Arguments

6. Applicant's arguments filed 6/30/06 have been fully considered but they are not persuasive.

In response to applicant's argument in page 24, second paragraph, in Figs. 7-9, Suzuki discloses displaying at least two command marks M1-M4 which indicate different operations in order to display commands which are to be carried out (e.g. left, down, up or right stepping commands).

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action. Any response to this final action should be mailed to:

Box AF:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to:

(571) 273-8300, (for formal communications; please mark
"EXPEDITED PROCEDURE").

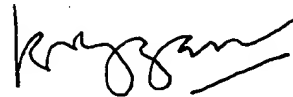
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (571) 272-4441. The examiner can normally be reached on Monday-Thursday from 8:30AM to 5:00PM ET.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on (571) 272-7147. The central official fax number is (571) 273-8300.

kn

Date: September 12, 2006

A handwritten signature in black ink, appearing to read 'Kim Nguyen', with a stylized flourish at the end.

Kim Nguyen
Primary Examiner
Art Unit 3713